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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,157	12/06/2001	Carine Van Hille	34110	2958
7590 10/03/2003			EXAMINER	
Pearne Gordon McCoy & Granger 526 Superior Avenue East Suite 1200 Cleveland, OH 44114-1484			RAEVIS, ROBERT R	
			ART UNIT	PAPER NUMBER
			2856	
DATE MAILED: 10/03/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s)

10/018,157

Applicant(s)

HILLE ET AL

Examiner

Robert R. Raevis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. Claims 10 to 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 10; what two elements is the valve "between" (line 5)? If intended to means that the valve (19) located between the bottom of the chamber (12) and plug (4), this is not correct as Figure 1 illustrates that valve (19) is below both of those items? Is the numeral "19" in error? Also, how is any valve (either valve 19 or even the valve between wall 2 and ring 3) "calibrated"? Finally, does the "bottom" of the chamber 12 mean the right hand side of chamber 12 in Figure 1?

As to claim 18; what does "it" refer back to?

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nakagawa et al teach a sampler, including: body 10 which includes a rotating valve 20 which has two apertures through the valve, two apertures 18 and 22 through the body and leading to sample intake pipe 16 and discharge pipe 3, the body including an orifice 22 provided with a valve (surface of valve 20 with corresponding seat surrounding the valve), and piston (attached to rod 14) within the body. However, Nakagawa's sampler does not teach use of "a *piston* (11) free to move *in the rotating plug* (4)" (italics added, claim 10), and does not teach that the apertures 18, 22 of the body are "equal" (line 2 of claim 10) to an angle separating the orifices of the valve, as shown by the reference's "selectively connected" (col. 3, line 18) comment.

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Jaeger teaches use of a piston 68 with rotating type valve 110 for sampling.

Topham teaches a piston 11 that pushes sample through a valve 6/7.

3. As to claim 10; note was made of the combination of the "piston (11) free to move in the rotating plug" (line 6) with "equal" (line 2) and remaining limitations of the claim, as the most relevant reference (Nakagawa) fails to teach that combination.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 703-305-4919. The examiner can normally be reached on Monday to Friday from 6:30am to 4:00pm. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

*Raevis*  
AU 2856  
RAEVIS